

STATE OF SOUTH CAROLINA

Palmetto Electric Cooperative, Inc. v. South
Carolina Electric & Gas Company

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 198 - E

(Please type or print)

Submitted by: K. Chad Burgess

SC Bar Number: 69456

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input checked="" type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		



K. Chad Burgess
Senior Counsel

chad.burgess@scana.com

June 24, 2009

VIA ELECTRONIC FILING

The Honorable Charles Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive (29210)
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Palmetto Electric Cooperative, Inc. v. South Carolina Electric & Gas Company
Docket No. 2009-198-E

Dear Mr. Terreni:

Enclosed for filing is the Answer of South Carolina Electric & Gas Company to the Complaint in the above-captioned matter.

By copy of this letter we are serving a copy of the Answer upon counsel for the other parties of record and enclose a certificate of service to that effect.

If you have any questions, please advise.

Very truly yours,

K. Chad Burgess

KCB/kms
Enclosure

cc: Shannon Bowyer Hudson, Esquire
J. David Black, Esquire
Manton M. Grier Jr., Esquire
(all via first class mail w/enclosure)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-198-E

IN RE:)	
)	
Palmetto Electric Cooperative, Inc.,)	
)	
Complainant,)	
)	
v.)	ANSWER OF SOUTH CAROLINA
)	ELECTRIC & GAS COMPANY
South Carolina Electric & Gas Company,)	TO COMPLAINT
)	
Respondent.)	
_____)	

Pursuant to 26 S.C. Code Ann. Regs. 103-826 and 103-830 (1976, as amended), the South Carolina Rules of Civil Procedure, and in compliance with the Notice issued by the Chief Clerk & Administrator of the Public Service Commission of South Carolina ("Commission") dated May 26, 2009, South Carolina Electric & Gas Company ("SCE&G" or "Company") hereby answers the Complaint of Palmetto Electric Cooperative, Inc. ("Palmetto") as follows:

FOR A FIRST DEFENSE

SCE&G denies each and every allegation of the Complaint except as hereinafter admitted.

FOR A SECOND DEFENSE

1. Upon information and belief, SCE&G admits the allegations made in Paragraph 1 of the Complaint.
2. SCE&G admits the allegations contained in Paragraph 2 of the Complaint.

3. SCE&G denies the allegations contained in Paragraph 3 of the Complaint and demands strict proof thereof. Upon information and belief, the premises that Palmetto claims it has a right to serve is located wholly within the municipal boundaries of the Town of Bluffton. Consequently, the Commission does not have jurisdiction over the Complaint.

4. SCE&G denies the allegations contained in Paragraph 4 of the Complaint and demands strict proof thereof.

5. SCE&G admits only so much of Paragraph 5 which alleges that the Beaufort County School District ("School District") plans to build a new Bluffton Middle School. SCE&G denies the remaining allegations contained in Paragraph 5 of the Complaint and demands strict proof thereof. Contrary to the allegations contained in Paragraph 5 of the Complaint that the new Bluffton Middle School is "located in the Bluffton area", SCE&G is informed and believes that the new Bluffton Middle School is located within the municipal boundaries of the Town of Bluffton

6. SCE&G denies the allegations contained in Paragraph 6 of the Complaint and demands strict proof thereof.

7. SCE&G denies the allegations contained in Paragraph 7 of the Complaint and demands strict proof thereof.

8. SCE&G denies the allegations contained in Paragraph 8 of the Complaint and demands strict proof thereof.

9. SCE&G denies the allegations of Paragraph 9 of the Complaint and demands strict proof thereof. Contrary to the allegations contained in Paragraph 9 of the Complaint, the School District's agent contacted SCE&G requesting whether the Company could provide electric service to the new Bluffton Middle School. By letter dated May 11, 2007, SCE&G

informed the School District's agent that the Company could provide electric service to the new Bluffton Middle School.

10. Upon information and belief, no response is required to that portion of Paragraph 10 of the Complaint in which Palmetto directly quotes the statutory language contained in S.C. Code Ann. § 58-27-620 (3) (Supp. 2008) because such statement constitutes a conclusion of law. To the extent that a response is required, SCE&G denies that S.C. Code Ann. § 58-27-620(3) (Supp. 2008) is applicable because, upon information and belief, the new Bluffton Middle School is wholly located within the municipal boundaries of the Town of Bluffton. SCE&G denies the remaining allegations of Paragraph 10 of the Complaint and demands strict proof thereof.

11. SCE&G denies the allegations contained in Paragraph 11 of the Complaint and demands strict proof thereof.

12. SCE&G denies the allegations contained in Paragraph 12 of the Complaint and demands strict proof thereof.

13. SCE&G denies the remaining allegations of Paragraph 13 of the Complaint and demands strict proof thereof.

14. As for the "WHEREFORE" clause of the Complaint, no response is required; however, to the extent that a response is required SCE&G denies same and demands strict proof thereof.

FOR A THIRD DEFENSE

15. The Complaint fails to state a claim for which the Commission has jurisdiction and authority, and thus the Complaint should be dismissed. *See* Rule 12(b), SCRCP.

FOR A FOURTH DEFENSE

16. The Complaint fails to state facts sufficient to constitute a cause of action, and thus the Complaint should be dismissed. *See* Rule 12(b), SCRCP.

FOR A FIFTH DEFENSE

17. The Complaint is barred by the doctrine of laches, and thus the Complaint should be dismissed.

WHEREFORE, having fully set forth its Answer to the Complaint, SCE&G respectfully requests that the Commission issue an order (i) dismissing the Complaint with prejudice, (ii) denying any relief to Palmetto, and (iii) granting such other and further relief to the Company as is just and proper.

Respectfully submitted,



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Attorneys for Defendant
South Carolina Electric & Gas Company

Columbia, South Carolina
June 24, 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-198-E

IN RE:

Palmetto Electric Cooperative, Inc.,)

Complainant,)

v.)

South Carolina Electric & Gas Company,)

Respondent.)

**CERTIFICATE
OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of South Carolina Electric & Gas Company's **Answer to the Complaint** via First Class U.S. Mail to the persons named below at the addresses set forth:

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

J. David Black, Esquire
Nexsen Pruet LLC
Post Office Drawer 2426
Columbia, SC 29202

Manton M. Grier Jr., Esquire
Nexsen Pruet LLC
Post Office Drawer 2426
Columbia, SC 29202


Karen M. Scruggs

Columbia, South Carolina
This 24th day of June, 2009